

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. APPLN. NO. 09/989,231
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REMARKS

Applicant thanks the Examiner for initialing the references listed on the PTO-1449 form submitted with the Information Disclosure Statement filed on November 21, 2001 and the references listed on the PTO/SB/08 A & B form submitted with the Information Disclosure Statement filed on January 31, 2003 and returning initialed copies thereof, thereby confirming that the listed references have been considered.

Claims 1-72 have been examined on their merits.

Applicants herein renumber claims 62-72 to 62-73 to correct a claim numbering error as noted in the August 30, 2004 Office Action.

Applicants herein add new claims 74-96. Support for new claims 74-96 can be found, for example, in the original claims and the specification. Entry and consideration of the new claims 74-96 is respectfully requested.

Applicants herein cancel claims 48-72 without prejudice and/or disclaimer.

Claims 1-47 and 73-96 are all the claims presently pending in this application.

1. Claim 62 stand objected to due to errors in claim numbering. The second claim that numbered as "62" and claims 63-72 have been renumbered as claims 63-73. Applicant submits that the objection to claim 62 is now moot due to the cancellation of claim 62.

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2. Claims 68-72, which are dependent upon claim 67, stand objected to due to their preambles reciting a computer system, whereas claim 67 refers to a computer program product. Applicant submits that the objection to claims 68-72 is now moot due to the cancellation of claims 68-72.

3. Claims 1-4, 9-13, 15-19, 26-28 and 34 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated over Nguyen *et al.* (U.S. Patent No. 6,609,213). Applicant respectfully traverses the rejection of claims 1-4, 9-13, 15-19, 26-28 and 34, and insofar as the rejection might apply to new claims 74-79, 81, 82 and 84-86, for at least the reasons discussed below.

To support a conclusion that a claimed invention lacks novelty under 35 U.S.C. § 102, a single source must teach all of the elements of a claim. *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1379, 231 U.S.P.Q. 81, 90 (Fed. Cir. 1986). A claim is anticipated only if each and every element as set forth in the claim is found either expressly or inherently in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). A single source must disclose all of the claimed elements arranged as in the claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). A proper anticipation rejection requires that every element of the claim be found “in a single prior art reference.” *See In re Robertston*, 169 F.3d 743, 745, 49 U.S.P.Q.2d 1949, 1950 (Fed. Cir. 1999). For anticipation to exist, there must be no

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difference between the claimed invention and the reference disclosure, as that reference would be understood by one of ordinary skill in the art. *See Scripps Clinic & Research Found. v. Genentech, Inc.*, 927 F.2d 1565, 1576, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991); *see also, Crown Operations Intn'l, Ltd. v. Solutia, Inc.*, 289 F.3d 1367, 62 U.S.P.Q.2d 1917 (Fed. Cir. 2002). Rejections under 35 U.S.C. § 102 are proper only when the claimed subject matter is identically disclosed or described in the prior art. Thus, the cited reference must clearly and unequivocally disclose every element and limitation of the claimed invention.

Nguyen *et al.* fail to teach or suggest at least a monitor that detects a failed process on a first node and causing the failed process to execute on a second node while the remaining processes continue to execute on the first node, as recited in claim 1. Nguyen *et al.* disclose, *inter alia*, that if the cluster detects a failure, the cluster will use storage consolidation software associated with a storage area network reassign the logical unit numbers (LUNs) owned by the failing server to the cluster. After the cluster has reassigned the LUNs, it will activate the recovery group containing the IP address and network name of the failing server. This will enable the cluster to assume the identity of the failing server and serve its users. *See* col. 3, lines 34-35 of Nguyen *et al.* Hence, because of a failure, Nguyen *et al.* will cause another cluster to replace for the failing server. It is also noted that Nguyen *et al.* disclose that all of the applications associated with the failing server have migrated to the cluster server. *See* col. 6, lines 29-31 of Nguyen *et al.* In sum, Nguyen *et al.* disclose the wholesale migration of applications

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from a failing server to a backup server, and do not teach or suggest transferring a failing process from one node to another node while the remaining processes continue to execute on the original node.

Based on the foregoing reasons, Applicant submits that Nguyen *et al.* fail to teach or suggest all of the claimed elements as arranged in claim 1. Therefore, under *Hybritech* and *Richardson*, Nguyen *et al.* clearly cannot anticipate the present invention as recited in independent claim 1. Thus, Applicants submit that claim 1 allowable, and further submit that claims 1-4, 9-13 and 15 are allowable as well, at least by virtue of their dependency from claim 1. Applicants respectfully request that the Patent Office withdraw the § 102(b) rejection of claims 1-4, 9-13 and 15.

With respect to independent claim 16, Applicants submit that claim 16 is allowable for at least reasons analogous to those discussed above with respect to claim 1, in that Nguyen *et al.* fail to teach or suggest at least transferring a failing process from one node to another node while the remaining processes continue to execute on the original node. Therefore, under *Hybritech* and *Richardson*, Applicants submit that claim 16 is allowable, and further submit that claims 17-19, 26-28 and 34 are allowable as well, at least by virtue of their dependency from claim 16. Applicants respectfully request that the Patent Office withdraw the § 102(b) rejection of claims 16-19, 26-28 and 34.

With respect to new independent claim 74, Applicants submit that claim 74 is allowable for at least reasons analogous to those discussed above with respect to claim 1, in that Nguyen *et al.* fail to teach or suggest at least transferring a failing sub-process

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from one node to another node while the remaining sub-processes continue to execute on the original node. Therefore, under *Hybritech* and *Richardson*, Applicants submit that claim 74 is allowable, and further submit that claims 75-79 are allowable as well, at least by virtue of their dependency from claim 74.

With respect to new independent claim 81, Applicants submit that claim 81 is allowable for at least reasons analogous to those discussed above with respect to claim 1, in that Nguyen *et al.* fail to teach or suggest at least transferring a failing sub-process from one node to another node while the remaining sub-processes continue to execute on the original node. Therefore, under *Hybritech* and *Richardson*, Applicants submit that claim 81 is allowable, and further submit that claims 82 and 84-86 are allowable as well, at least by virtue of their dependency from claim 81.

4. Claims 48-52 and 54-72 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated over Davis *et al.* (U.S. Patent No. 6,701,449). Applicant submits that the rejection of claims 48-52 and 54-73 are now moot due to the cancellation of claims 48-52 and 54-73.

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5. Claims 5, 7, 8, 20, 22 and 23 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Nguyen *et al.* in view of Davis *et al.* Applicant respectfully traverses the rejection of claims 5, 7, 8, 20, 22 and 23, and insofar as the rejection might apply to new claims 75 and 82, for at least the reasons discussed below.

The burden of establishing that a claimed invention is *prima facie* obvious rests on the USPTO. *In re Piasecki*, 745 F.2d 1468, 1472, 223 U.S.P.Q. 785, 788 (Fed. Cir. 1984). To make its *prima facie* case of obviousness, the USPTO must satisfy three requirements:

- a) The prior art relied upon, coupled with the knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the artisan to modify a reference or to combine references. *In re Fine*, 837 F.2d 1071, 1074, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988).
- b) The proposed modification of the prior art must have had a reasonable expectation of success, as determined from the vantage point of the artisan at the time the invention was made. *Amgen, Inc. v. Chugai Pharm. Co.*, 927 F.2d 1200, 1208, 18 U.S.P.Q.2d 1016, 1022-23 (Fed. Cir. 1991).
- c) The prior art reference or combination of references must teach or suggest all the limitations of the claims. *In re Vaeck*, 947 F.2d 488, 493, 20 U.S.P.Q.2d 1438, 1442 (Fed. Cir. 1991); *In re Wilson*, 424 F.2d 1382, 1385, 165 U.S.P.Q. 494, 496 (CCPA 1970).

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The motivation, suggestion or teaching may come explicitly from statements in the prior art, the knowledge of one of ordinary skill in the art, or, the nature of a problem to be solved. *In re Dembiczak*, 175 F.3d 994, 999, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999). Alternatively, the motivation may be implicit from the prior art as a whole, rather than expressly stated. *Id.* Regardless of whether the USPTO relies on an express or an implicit showing of motivation, the USPTO is obligated to provide particular findings related to its conclusion, and those findings must be clear and particular. *Id.* A broad conclusionary statement, standing alone without support, is not “evidence.” *Id.*; *see also*, *In re Zurko*, 258 F.3d 1379, 1386, 59 U.S.P.Q.2d 1693, 1697-98 (Fed. Cir. 2001).

In addition, a rejection cannot be predicated on the mere identification of individual components of claimed limitations. *In re Kotzab*, 217 F.3d 1365, 1371, 55 U.S.P.Q.2d 1313, 1317 (Fed. Cir. 2000). Rather, particular findings must be made as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed. *Id.*

Claims 5, 7 and 8 depend from independent claim 1, and therefore incorporate all of the features thereof. Applicant submits that Davis *et al.* fail to cure the deficiencies of Nguyen *et al.* as discussed above regarding claim 1. Furthermore, since neither reference discloses the transfer of a failed process from one node to another node while the remaining processes continue to execute, Applicant submits that one of ordinary skill would not be motivated to combine Nguyen *et al.* and Davis *et al.* Thus, Applicant submits that claims 5, 7 and 8 are allowable at least by virtue of their dependency from

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independent claim 1, and respectfully requests that the § 103(a) rejection of claims 5, 7 and 8 be withdrawn.

Claims 20, 22 and 23 depend from independent claim 16, and therefore incorporate all of the features thereof. Applicant submits that Davis *et al.* fail to cure the deficiencies of Nguyen *et al.* as discussed above regarding claim 16. Furthermore, since neither reference discloses the transfer of a failed process from one node to another node while the remaining processes continue to execute, Applicant submits that one of ordinary skill would not be motivated to combine Nguyen *et al.* and Davis *et al.* Therefore, Applicant submits that claims 20, 22 and 23 are allowable at least by virtue of their dependency from independent claim 16, and respectfully requests that the § 103(a) rejection of claims 20, 22 and 23 be withdrawn.

Claim 75 depends from independent claim 74, and therefore incorporates all of the features thereof. Applicant submits that Davis *et al.* fail to cure the deficiencies of Nguyen *et al.* as discussed above regarding claim 74. Furthermore, since neither reference discloses the transfer of a failed sub-process from one node to another node while the remaining sub-processes continue to execute, Applicant submits that one of ordinary skill would not be motivated to combine Nguyen *et al.* and Davis *et al.* Therefore, Applicant submits that claim 75 is allowable at least by virtue of its dependency from independent claim 74.

Claim 82 depends from independent claim 81, and therefore incorporates all of the features thereof. Applicant submits that Davis *et al.* fail to cure the deficiencies of

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Nguyen *et al.* as discussed above regarding claim 81. Furthermore, since neither reference discloses the transfer of a failed sub-process from one node to another node while the remaining sub-processes continue to execute, Applicant submits that one of ordinary skill would not be motivated to combine Nguyen *et al.* and Davis *et al.* Thus, Applicant submits that claim 82 is allowable at least by virtue of its dependency from independent claim 81.

6. Claims 6 and 21 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Nguyen *et al.* in view of Motamed *et al.* (U.S. Patent No. 6,519,053). Applicant respectfully traverses the rejection of claims 6 and 21, and insofar as the rejection might apply to new claims 75 and 82, for at least the reasons discussed below.

Claim 6 depends from independent claim 1, and therefore incorporates all of the features thereof. Applicant submits that Motamed *et al.* fail to cure the deficiencies of Nguyen *et al.* as discussed above regarding claim 1. Furthermore, since neither reference discloses the transfer of a failed process from one node to another node while the remaining processes continue to execute, Applicant submits that one of ordinary skill would not be motivated to combine Nguyen *et al.* and Motamed *et al.* Thus, Applicant submits that claim 6 is allowable at least by virtue of their dependency from independent claim 1, and respectfully requests that the § 103(a) rejection of claim 6 be withdrawn.

Claim 21 depends from independent claim 16, and therefore incorporates all of the features thereof. Applicant submits that Motamed *et al.* fail to cure the deficiencies

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of Nguyen *et al.* as discussed above regarding claim 16. Furthermore, since neither reference discloses the transfer of a failed process from one node to another node while the remaining processes continue to execute, Applicant submits that one of ordinary skill would not be motivated to combine Nguyen *et al.* and Motamed *et al.* Therefore, Applicant submits that claim 21 is allowable at least by virtue of their dependency from independent claim 16, and respectfully requests that the § 103(a) rejection of claim 21 be withdrawn.

Claim 75 depends from independent claim 74, and therefore incorporates all of the features thereof. Applicant submits that Motamed *et al.* fail to cure the deficiencies of Nguyen *et al.* as discussed above regarding claim 74. Furthermore, since neither reference discloses the transfer of a failed sub-process from one node to another node while the remaining sub-processes continue to execute, Applicant submits that one of ordinary skill would not be motivated to combine Nguyen *et al.* and Motamed *et al.* Therefore, Applicant submits that claim 75 is allowable at least by virtue of its dependency from independent claim 74.

Claim 82 depends from independent claim 81, and therefore incorporates all of the features thereof. Applicant submits that Motamed *et al.* fail to cure the deficiencies of Nguyen *et al.* as discussed above regarding claim 81. Furthermore, since neither reference discloses the transfer of a failed sub-process from one node to another node while the remaining sub-processes continue to execute, Applicant submits that one of ordinary skill would not be motivated to combine Nguyen *et al.* and Motamed *et al.*

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Thus, Applicant submits that claim 82 is allowable at least by virtue of its dependency from independent claim 81.

7. Claims 24 and 25 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Nguyen *et al.* in view of Kirch (U.S. Patent No. 6,324,161). Applicant respectfully traverses the rejection of claims 24 and 25, and insofar as the rejection might apply to new claim 83, for at least the reasons discussed below.

Claims 24 and 25 depend from independent claim 16, and therefore incorporate all of the features thereof. Applicant submits that Kirch fails to cure the deficiencies of Nguyen *et al.* as discussed above regarding claim 16. Furthermore, since neither reference discloses the transfer of a failed process from one node to another node while the remaining processes continue to execute, Applicant submits that one of ordinary skill would not be motivated to combine Nguyen *et al.* and Kirch. Therefore, Applicant submits that claims 24 and 25 are allowable at least by virtue of their dependency from independent claim 16, and respectfully requests that the § 103(a) rejection of claims 24 and 25 be withdrawn.

Claim 83 depends from independent claim 81, and therefore incorporates all of the features thereof. Applicant submits that Kirch fails to cure the deficiencies of Nguyen *et al.* as discussed above regarding claim 81. Furthermore, since neither reference discloses the transfer of a failed sub-process from one node to another node while the remaining sub-processes continue to execute, Applicant submits that one of

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ordinary skill would not be motivated to combine Nguyen *et al.* and Kirch. Thus, Applicant submits that claim 83 is allowable at least by virtue of its dependency from independent claim 81.

8. Claims 14 and 29-33 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Nguyen *et al.* in view of Majkowski (U.S. Patent No. 6,564,336). Applicant respectfully traverses the rejection of claims 14 and 29-33, and insofar as the rejection might apply to claims 80 and 87-91, for at least the reasons discussed below.

Claim 14 depends from independent claim 1, and therefore incorporates all of the features thereof. Applicant submits that Majkowski fails to cure the deficiencies of Nguyen *et al.* as discussed above regarding claim 1. For example, Majkowski discloses that when a switchover occurs, there is no secondary server operating until the “old” primary server is reinitialized; therefore, Majkowski cannot meet the recitations of claim 1 at least with respect to the remaining (*i.e.*, non-failed) processes continuing to execute on the node where the one process failed. Furthermore, since neither reference discloses the transfer of a failed process from one node to another node while the remaining processes continue to execute, Applicant submits that one of ordinary skill would not be motivated to combine Nguyen *et al.* and Majkowski. Thus, Applicant submits that claim 14 is allowable at least by virtue of its dependency from independent claim 1, and respectfully requests that the § 103(a) rejection of claim 14 be withdrawn.

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Claims 29-32 depend from independent claim 16, and therefore incorporate all of the features thereof. Applicant submits that Majkowski fails to cure the deficiencies of Nguyen *et al.* as discussed above regarding claim 16. For example, Majkowski discloses that when a switchover occurs, there is no secondary server operating until the “old” primary server is reinitialized; therefore, Majkowski cannot meet the recitations of claim 1 at least with respect to the remaining (*i.e.*, non-failed) processes continuing to execute on the node where the one process failed. Furthermore, since neither reference discloses the transfer of a failed process from one node to another node while the remaining processes continue to execute, Applicant submits that one of ordinary skill would not be motivated to combine Nguyen *et al.* and Majkowski. Thus, Applicant submits that claims 29-32 are allowable at least by virtue of its dependency from independent claim 16, and respectfully requests that the § 103(a) rejection of claims 29-32 be withdrawn.

Claim 80 depends from independent claim 74, and therefore incorporates all of the features thereof. Applicant submits that Majkowski fails to cure the deficiencies of Nguyen *et al.* as discussed above regarding claim 1. For example, Majkowski discloses that when a switchover occurs, there is no secondary server operating until the “old” primary server is reinitialized; therefore, Majkowski cannot meet the recitations of claim 1 at least with respect to the remaining (*i.e.*, non-failed) sub-processes continuing to execute on the node where the one sub-process failed. Furthermore, since neither reference discloses the transfer of a failed sub-process from one node to another node while the remaining sub-processes continue to execute, Applicant submits that one of

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ordinary skill would not be motivated to combine Nguyen *et al.* and Majkowski. Thus, Applicant submits that claim 80 is allowable at least by virtue of its dependency from independent claim 74.

Claims 87-91 depend from independent claim 81, and therefore incorporates all of the features thereof. Applicant submits that Majkowski fails to cure the deficiencies of Nguyen *et al.* as discussed above regarding claim 81. Furthermore, since neither reference discloses the transfer of a failed sub-process from one node to another node while the remaining sub-processes continue to execute, Applicant submits that one of ordinary skill would not be motivated to combine Nguyen *et al.* and Kirch. Thus, Applicant submits that claims 87-91 are allowable at least by virtue of their dependency from independent claim 81.

9. Claims 35-38 and 43-47 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Nguyen *et al.* in view of Majkowski and in further view of Denninghoff *et al.* (U.S. Patent No. 6,754,855). Applicant respectfully traverses the rejection of claims 35-38 and 43-47, and insofar as the rejection might apply to new claims 92-96, for at least the reasons discussed below.

The combination of Nguyen *et al.*, Majkowski and Denninghoff *et al.* fails to teach or suggest at least transferring a failing process from one node to another node while the remaining processes continue to execute on the original node, as recited in claim 35. For example, Nguyen *et al.* fail to teach or suggest the transfer of a failed

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process from one node to another node while the remaining processes continue to execute on the original node, but instead disclose the shutdown of a node and transfer of the executing processes to another node when there is a failure. Majkowski is cumulative of Nguyen *et al.* with respect to the shutdown and transfer of processes when there is a failure. In addition, Denninghoff *et al.* is cumulative of Nguyen *et al.* with respect to the shutdown and transfer of processes when there is a failure. Denninghoff *et al.* disclose, *inter alia*, the recovery of an operating system by either rebooting the operating system or possibly correcting the operating system without rebooting the operating system. However, Denninghoff *et al.* does not disclose the transfer of a failed process from one node to another while the remaining processes continue to operate on the original node. Majkowski fails to teach or suggest the transfer of a failed process while the remaining processes continue to execute on the original node. Thus, Applicant submits that the Patent Office cannot fulfill the “all limitations” prong of a *prima facie* case of obviousness, as required by *In re Vaeck*.

Applicants submit that one of skill in the art would not be motivated to combine the three references, since neither Nguyen *et al.*, Majkowski nor Denninghoff *et al.* teach or suggest at least transferring a failing process from one node to another node while the remaining processes continue to execute on the original node. Thus, Applicant submits that the Patent Office cannot fulfill the motivation prong of a *prima facie* case of obviousness, as required by *In re Dembiczak* and *In re Zurko*.

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Based on the foregoing reasons, Applicant submits that the combination of Nguyen *et al.*, Majkowski and Denninghoff *et al.* fails to teach or suggest all of the claimed elements as arranged in claim 35. Therefore, Applicants submit that claim 35 is allowable, and further submit that claims 36-38 and 43-45 are allowable as well, at least by virtue of their dependency from claim 35. Applicant respectfully requests that the Patent Office withdraw the § 103(a) rejection of claims 35-38 and 43-45.

With respect to claims 46 and 47, Applicants submit that claims 46 and 47 are allowable for at least the same reasons discussed above with respect to claim 35, in that the combination of Nguyen *et al.*, Majkowski and Denninghoff *et al.* fails to teach or suggest at least transferring a failing process from one node to another node while the remaining processes continue to execute on the original node. Thus, Applicants submit that claims 46 and 47 are allowable, and respectfully request that the Patent Office withdraw the § 103(a) rejection of claims 46 and 47.

With respect to new claims 92-96, Applicants submit that claims 92, 95 and 96 are allowable for at least the same reasons discussed above with respect to claim 35, in that the combination of Nguyen *et al.*, Majkowski and Denninghoff *et al.* fails to teach or suggest at least transferring a failing sub-process from one node to another node while the remaining sub-processes continue to execute on the original node. Thus, Applicants submit that claims 92, 95 and 96 are allowable, and further submit that claims 93 and 94 are allowable as well, at least by virtue of their dependency from claim 92.

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10. Claims 39, 41 and 42 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Nguyen *et al.* in view of Majkowski and Denninghoff *et al.* and in further view of Davis *et al.* Applicant respectfully traverses the rejection of claims 39, 41 and 42 for at least the reasons discussed below.

Claims 39, 41 and 42 depend from independent claim 35, and therefore incorporates all of the features thereof. Applicant submits that Davis *et al.* fails to cure the deficiencies of the combination of Nguyen *et al.*, Majkowski and Denninghoff *et al.* as discussed above regarding claim 35. Furthermore, since none of the references discloses the transfer of a failed process from one node to another node while the remaining processes continue to execute, Applicant submits that one of ordinary skill would not be motivated to combine Nguyen *et al.*, Majkowski and Denninghoff *et al.* with Davis *et al.* Thus, Applicant submits that claims 39, 41 and 42 is allowable at least by virtue of its dependency from independent claim 35, and respectfully requests that the § 103(a) rejection of claims 39, 41 and 42 be withdrawn.

With respect to new claim 93, Applicants submit that claim 93 is allowable for at least the same reasons discussed above with respect to claim 35, in that the combination of Nguyen *et al.*, Majkowski and Denninghoff *et al.* fails to teach or suggest at least transferring a failing sub-process from one node to another node while the remaining sub-processes continue to execute on the original node.

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11. Claim 40 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Nguyen *et al.* in view of Majkowski and Denninghoff *et al.* and in further view of Motamed *et al.* Applicant respectfully traverses the rejection of claim 40 for at least the reasons discussed below.

Claim 40 depends from independent claim 35, and therefore incorporates all of the features thereof. Applicant submits that Motamed *et al.* fails to cure the deficiencies of the combination of Nguyen *et al.*, Majkowski and Denninghoff *et al.* as discussed above regarding claim 35. Furthermore, since none of the references discloses the transfer of a failed process from one node to another node while the remaining processes continue to execute, Applicant submits that one of ordinary skill would not be motivated to combine Nguyen *et al.*, Majkowski and Denninghoff *et al.* with Motamed *et al.* Therefore, Applicant submits that claim 40 is allowable at least by virtue of its dependency from independent claim 35, and respectfully requests that the § 103(a) rejection of claim 40 be withdrawn.

With respect to new claim 93, Applicants submit that claim 93 is allowable for at least the same reasons discussed above with respect to claim 35, in that the combination of Nguyen *et al.*, Majkowski and Denninghoff *et al.* fails to teach or suggest at least transferring a failing sub-process from one node to another node while the remaining sub-processes continue to execute on the original node.


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12. Claim 53 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Davis *et al.* in view of Motamed *et al.* Applicant submits that the rejection of claim 53 is now moot due to the cancellation of claim 53.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,


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